# IN THE HIGH COURT OF JUDICATURE
# ANDHRA PRADESH
# AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO : 6879 of 2006

Dated: 31st July 2006.

Between:
Sadar Anjuman-e-Islamia
Rep. by its Secretary Mohd. Saifuddin .. Petitioner

And

The Commissioner,
Municipal Corporation of Hyderabad
And three others .. Respondents

ORAL ORDER : (per JC,J)

Writ Petition is filed with the prayer as follows :

> "For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon'ble Court may be pleased to issue writ of Mandamus or any appropriate writ, order or direction the petitioner-society is entitled for exemption from payment of property tax in respect of properties which are under its management as religious and charitable institution under Section 202(bb) of HMC Act and consequently the respondents may be directed to issue exemption proceedings as per representations of the petitioner-society submitted on 20.3.2003 and subsequent representations, in the interest of justice and pass such other order or orders as this Hon'ble Court may

deem fit and proper in the circumstances of the case."

The petitioner is a society deemed to be registered the Societies Act. It is claimed in the affidavit filed in support writ petition that the petitioner owns number of buildings in the Hyderabad and other places which are registered wakf prope He therefore claims that this property should be exempted fro payment of taxes under the Municipal Corporation Act, Hyderab is stated in the affidavit filed in support of the writ petition tha income derived from these properties is being spent primari religious schools, the further details of which are not available e a bald assertion at para 3 which reads as follows :

> "3. That the income derived from the said buildings and shops by way of rent is being spent on Primary and Pre-Primary Religious Schools in villages of Andhra Pradesh in accordance with the object of wakf and as per the bye-laws of the petitioner-society. The list of the school to whom the petitioner-society is giving aid is filed herewith and marked as Ex.P-2."

In this background, the petitioner claims that he m representation to the respondent No.1 requesting the respond exempt the buildings of the petitioner society from the taxation the Hyderabad Municipal Corporation Act, 1955. Complaining th decision is taken by the 1st respondent and further respondent issued notices demanding the payment of tax, the present writ pe is filed.

Learned counsel for the petitioner when confronted the question as to the provision of law under which he is entitl exemption pointed out Section 202 of the Hyderabad Mun Corporation Act, 1955 which read as follows :

**"202. General tax on what premises to be levied :** (1) The general tax shall be levied in respect of all buildings and lands in the city except –

(a) buildings and lands solely used for purposes connected with the disposal of the dead;

(b) buildings and lands or portions thereof solely occupied and used for public worship or for a charitable purpose;

(bb) educational institutions upto 10th class, the buildings, of which are donated by charitable institutions or philanthropists, or which are depending on the grant-in-aid by the Government for the maintenance and such other educational institutions which are not running purely on commercial lines, but serving the cause of primary education which the Government may consider from time to time;

(c) buildings and lands vesting in the Central Government or the Corporation;

(d) buildings and lands vesting in the State Government used solely for public purposes and not used or intended to be used for purposes of profit in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the State Government as the case may be.

(2) The following buildings and lands or portions thereof shall not be deemed to be solely occupied and used for public worship or for a charitable or educational purposes within the meaning of clause (b) of sub-section (1), namely :-

(a) buildings or lands or portions thereof in which any trade or business is carried on; and

(b) buildings or lands or portions thereof in respect of which rent is derived, whether such rent is or is not applied solely to religious or charitable or educational purposes.

(3) Where any portion of any building or land is exempt from the general tax by reason of its being solely occupied and used for public

worship or for a charitable or educational purpose, such portion shall be deemed to be a separate property for the purpose of municipal taxation."

Upon the facts stated in the affidav buildings owned by the petitioner do not fall unde one of the categories as enumerated under Sectio of the Act. Only those classes of buildings whic specified under Section 202 of the Act are exemp tax that too the General Tax.

In the circumstances, we do not see any right in favour of the petitioner for obtaining the such as the one sought for in the writ petition. Th petition is therefore dismissed.

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knk 31.07.2006